



CENTRAL INTELLIGENCE AGENCY

32 CFR Part 1903

Conduct on Agency Installations

AGENCY: Central Intelligence Agency.

ACTION: Final rule.

SUMMARY: The Central Intelligence Agency (CIA) is amending its installation security regulations to include Office of the Director of National Intelligence (ODNI) property in the definition of Agency installation, which reflects the Agency's authority to provide security on ODNI installations. The CIA is also removing the exemption for Federal officials or members of the Armed Forces from its prohibition on carrying weapons on Agency installations, except when such persons are either authorized by the CIA Director of Security or otherwise authorized by law for the performance of official law enforcement duties. This amendment also revises the definition of weapon to permit small amounts of irritant gas on Agency installations and revises the penalties provision to clarify that the penalty for a violation of these regulations is up to a Class C misdemeanor.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Court Liaison Officer, Office of Security, Central Intelligence Agency, Washington, D.C., 20505. Please include "Security Rulemaking" in the subject line of the letter.

FOR FURTHER INFORMATION CONTACT: Court Liaison Officer, (571) 280-3563.

SUPPLEMENTARY INFORMATION:

Background

Section 15 of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 3515) (CIA Act), permits the Director of the CIA to authorize Agency personnel within the United States to perform the same functions as officers and agents of the Department of Homeland

Security (DHS), as provided in 40 U.S.C. 1315(b)(2). In accordance with section 1315(b)(2), DHS officers and agents are authorized to enforce Federal laws and regulations for the protection of persons and property; carry firearms; make arrests without warrant for any offense against the United States committed in the presence of the officer or agent or for any felony cognizable under the laws of the United States if the officer or agent has reasonable ground to believe that the person to be arrested has committed or is committing a felony; serve warrants and subpoenas issued under the authority of the United States; conduct investigations, on and off the property in question, of offenses that may have been committed against property owned or occupied by the Federal Government or persons on the property; and carry out other activities for the promotion of homeland security as the Secretary of DHS may prescribe. In 1998, the CIA promulgated regulations in 32 CFR part 1903 pursuant to its authority under section 15 of the CIA Act to carry out these protective law enforcement functions.

In December 2022, Congress enacted the Intelligence Authorization Act for Fiscal Year 2023 (IAA FY23). Section 6303 of the IAA FY23 amended section 15(a) of the CIA Act to extend the CIA's law enforcement jurisdiction to Office of the Director of National Intelligence (ODNI) installations.

Summary of Revisions

The final rule revises the definition of Agency installation in 32 CFR 1903.1 to include ODNI installations, which reflects the expansion of CIA's law enforcement jurisdiction.

The final rule revises the definition of weapons in § 1903.1 to include an exemption for 2 ounces or less of irritant gas. This amendment codifies the CIA's long-standing practice of permitting small amounts of irritant gas, which individuals may carry for personal protection, on Agency installations.

The final rule revises the prohibition in § 1903.4(b)(1) on driving while impaired to more closely align the language of this prohibition with State laws on driving while impaired.

The final rule revises § 1903.6(d) to codify CIA authorities included in the consent signage, which allows both full search of the person and any personal property, including electronic devices.

The final rule revises the weapons prohibition in § 1903.10(c) to strike two exemptions: one exemption that allows weapons on Agency installations where 18 U.S.C. 930 applies; and another exemption that allows the possession of a weapon on Agency installations by a Federal official or a member of the Armed Forces if such possession is authorized by law. With the elimination of these two exemptions, two exemptions from the weapons prohibition remain in the regulation. One is an exemption for any person who receives authorization from the CIA Director of Security to possess, carry, transport, or use a weapon. The other exemption is for any officer, agent, or employee of the United States, a State, or a political subdivision of a State, who is engaged in the lawful performance of official duties and is authorized by law to engage in law enforcement.

The final rule revises § 1903.15(a) and (b) to strike the exception to the prohibition on theft where 18 U.S.C. 661 applies, because this exemption is unnecessary, and to clarify that destruction and theft of Government property is prohibited.

This final rule revises § 1903.20(a) to strike the provision that allows the imposition of penalties up to a Class B misdemeanor and replace it with a provision that allows penalties as permitted by 50 U.S.C. 3515(b). This revision is necessary because 50 U.S.C. 3515(b) provides that penalties shall not exceed those specified in 40 U.S.C. 1315(c)(2), which limits penalties to Class C, not Class B, misdemeanors.

The final rule also makes several minor editorial revisions, including revising terms in § 1903.1 to align with the terms used in Title 18 of the United States Code, updating officers' titles, and correcting typographical errors.

Executive Orders 12866 and 13563

The final rule was drafted and reviewed in accordance with Executive Order 12866, *Regulatory Planning and Review*, and Executive Order 13563, *Improving Regulation and Regulatory Review*. The final rule does not constitute a significant regulatory action under section 3(f) of Executive Order 12866; therefore, it is not subject to mandatory prior review by the Office of Management and Budget Office of Information and Regulatory Affairs (OMB/OIRA) under section 6 of Executive Order 12866.

Executive Order 12988

The final rule meets the applicable standards in section 3 of Executive Order 12988, *Civil Justice Reform*.

Executive Order 13132

The final rule will not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore the final rule does not have federalism implications. Therefore, the requirements of sections 2, 3, and 8 of Executive Order 13132, *Federalism*, do not apply to the final rule.

Paperwork Reduction Act of 1995

The final rule does not involve an information collection. Therefore, the review and OMB clearance requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506 and 3507, do not apply.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), CIA has reviewed the final rule and certifies that it will not have a significant economic impact on a substantial number of small entities, and thus no regulatory flexibility analysis is required. These regulations pertain to conduct on Agency installations and do not impose any new requirements on small entities.

Unfunded Mandates Reform Act of 1995

The final rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of the inflation-adjusted statutory threshold of \$165 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532(a) and 1533(a).

Small Business Regulatory Enforcement Fairness Act of 1996

The final rule will not result in an annual effect on the economy of \$100 million or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, it does not constitute a major rule as defined by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601.

Administrative Procedure Act

The rule concerns the management of public property and is issued as a final rule in accordance with 5 U.S.C. 553(a)(2).

List of Subjects in 32 CFR Part 1903

Crime, Defense, Federal buildings and facilities, Government buildings, Government property, Law enforcement, Motor vehicles, Security measures.

For the reasons stated in the preamble, the Central Intelligence Agency amends 32 CFR part 1903 as set forth below:

PART 1903 - CONDUCT ON AGENCY INSTALLATIONS

1. Revise the authority citation for part 1903 to read as follows:

Authority: 50 U.S.C. 3515.

2. In § 1903.1:

a. Revise the definitions of “Agency installation” and “Authorized person”;

- b. Remove the definitions “Blasting agents” and “Explosives/Explosive Materials” and add the definitions “Blasting agent” and “Explosive materials” in their places, respectively; and
- c. Revise the definition of “Weapons”.

The revisions and additions read as follows:

§ 1903.1 Definitions.

Agency installation. For the purposes of this part, the term Agency installation means property owned, leased, or controlled by the Central Intelligence Agency, property controlled and occupied by the Federal Highway Administration located immediately adjacent to the CIA Headquarters Compound, and property owned, leased, or controlled by the Office of the Director of National Intelligence.

Authorized person. An officer of the Security Protective Service, or any other Central Intelligence Agency employee who has been authorized by the Director of the Central Intelligence Agency pursuant to section 15 of the Central Intelligence Agency Act of 1949 to enforce the provisions of this part.

Blasting agent. The term is defined for the purposes of this part as it is defined in 18 U.S.C. 841.

Explosive materials. The term is defined for the purposes of this part as it is defined in 18 U.S.C. 841.

Weapons. Any firearms or any other loaded or unloaded pistol, rifle, shotgun, or other weapon which is designed to, or may be readily converted to expel a projectile by ignition of a propellant, by compressed gas, or which is spring-powered. Any bow and arrow, crossbow, blowgun, spear gun, hand-thrown spear, sling-shot, irritant gas device, explosive device, or any other implement designed to discharge missiles; or a weapon, device, instrument, material, or

substance, animate or inanimate, that is used for or is readily capable of, causing death or serious bodily injury, including any weapon the possession of which is prohibited under the laws of the State in which the Agency installation or portion thereof is located; except that such term does not include a closing pocket knife with a blade of less than 2 1/2 inches in length or 2 ounces or less of irritant gas.

3. In § 1903.2, revise the third sentence to read as follows:

§ 1903.2 Applicability.

*** The Director of the Central Intelligence Agency, or his or her designee, may suspend the applicability of this part, or a portion thereof, on any Agency installation, or any portion of the installation, covered under this part. ***

4. In § 1903.4, revise paragraph (b)(1) and (2) to read as follows:

§ 1903.4 Vehicles and traffic safety.

(b) ***

(1) *Prohibited conduct.* Operating or being in actual physical control of a vehicle is prohibited:

(i) While under the influence of alcohol;

(ii) While under the influence of any narcotic drug or any other self-administered intoxicant or drug of whatsoever nature, or any combination of such drugs, to a degree that impairs one's ability to drive or operate any motor vehicle;

(iii) While under the combined influence of alcohol and any drugs or drugs to a degree that impairs one's ability drive or operate any motor vehicle; or

(iv) While the alcohol concentration in the operator's blood is 0.08 grams or more of alcohol per 100 milliliters of blood or 0.08 grams or more alcohol per 210 liters of breath. Provided, however, that if the applicable State law that applies to operating a vehicle while under the influence of alcohol establishes more restrictive limits of alcohol concentration in the operator's blood or breath, those limits supersede the limits specified in this section.

(2) *Applicability.* The provisions of paragraph (b)(1) of this section shall also apply to an operator who is or has been legally entitled to use alcohol or another drug.

5. Revise § 1903.5 to read as follows:

§ 1903.5 Enforcement of parking regulations.

(a) A vehicle parked in any location without authorization, pursuant to a fraudulent, fabricated, copied or altered parking permit, or parked contrary to the directions of posted signs or markings shall be subject to any penalties imposed by this section and the vehicle may be removed from the Agency installation at the owner's risk and expense.

(b) The use, attempted use, or possession of a fraudulent, fabricated, copied, or altered parking permit is prohibited.

(c) The blocking of entrances, driveways, sidewalks, paths, loading platforms, or fire hydrants on an Agency installation is prohibited.

(d) This section may be supplemented or the applicability suspended from time to time by the CIA Director of Security, or by his or her designee, by the issuance and posting of such parking directives as may be required, and when so issued and posted, such directives shall have the same force and effects as if made a part thereof.

(e) Long term parking (parking in excess of 72 hours) is permitted only in designated areas and with express approval consistent with CIA internal guidance.

(f) Proof that a vehicle was parked in violation of the regulations of this section or directives may be taken as prima facie evidence that the registered owner was responsible for the violation.

(g) Any violation of this section may result in relocation of the vehicle or removal of the vehicle from the Agency installation at the owner's risk and expense. The Central Intelligence Agency assumes no responsibility for the payment of any fees or costs related to the removal or storage of the vehicle, which may be charged to the owner of the vehicle by the towing organization.

6. In § 1903.6, revise paragraphs (c) and (d) to read as follows:

§ 1903.6 Admission on to an Agency installation.

(c) All personal property, including but not limited to any packages, briefcases, electronic devices, other containers or vehicles brought on to, on, or being removed from an Agency installation are subject to inspection and search by authorized persons.

(d) A full search of a person or any personal property, to include electronic devices, may accompany an investigative stop or an arrest.

7. In § 1903.9, revise paragraph (a) to read as follows:

§ 1903.9 Explosives.

(a) Using, possessing, storing, or transporting explosives, blasting agents, ammunition or explosive materials is prohibited on any Agency installation, except as authorized by the CIA Director of Security. When permitted, the use, possession, storage, and transportation shall be in accordance with applicable Federal and State laws, and shall also be in accordance with applicable Central Intelligence Agency rules and regulations in this chapter.

8. In § 1903.10, revise paragraph (c) to read as follows:

§ 1903.10 Weapons.

(c) This section does not apply:

- (1) To any person who has received authorization from the CIA Director of Security, or from his or her designee, to possess, carry, transport, or use a weapon in support of the Agency's mission or for other lawful purposes as determined by the CIA Director of Security; or
- (2) To the lawful performance of official duties by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of law.

9. In § 1903.11, revise paragraph (d) to read as follows:

§ 1903.11 Restrictions on photographic, transmitting, and recording equipment.

(d) This section does not apply to any person who has received approval from the CIA Director of Security, or from his or her designee, to carry, transport, or use a camera, other visual or audio recording devices, or electronic transmitting equipment while on an Agency installation.

10. In § 1903.12, revise paragraphs (a) and (b)(2) to read as follows:

§ 1903.12 Alcoholic beverages and controlled substances.

(a) *Alcoholic beverages.* The possession or transportation of alcoholic beverages in closed containers and their consumption on an Agency installation will be administratively controlled by the Agency outside the provisions of this part.

(b)***

(2) The possession of a controlled substance, unless such substance was obtained by the possessor directly from, or pursuant to a valid prescription or ordered by, a licensed physician or pharmacist.

11. In § 1903.13, revise the section heading to read as follows:

§ 1903.13 Under the influence while on an Agency installation.

12. In § 1903.15, revise paragraphs (a) and (b) to read as follows:

§ 1903.15 Preservation of property.

(a) *Property damage.* Destroying or damaging private or Government property.

(b) *Theft.* The theft of private or Government property.

13. In § 1903.17, revise paragraphs (a) and (b) to read as follows:

§ 1903.17 Soliciting, vending, and debt collection.

(a) National or local drives for funds for welfare, health, or other purposes as authorized by 5 CFR parts 110 and 950 and sponsored or approved by the Director of the Central Intelligence Agency, or by his or her designee.

(b) Personal notices posted on authorized bulletin boards and in compliance with Central Intelligence Agency internal guidance governing the use of such authorized bulletin boards advertising to sell or rent property of Central Intelligence Agency employees, their immediate families, or other persons with proper authorization.

14. Revise § 1903.18 to read as follows:

§ 1903.18 Distribution of materials.

Distributing, posting, or affixing materials, such as pamphlets, handbills, or flyers, on any Agency installation is prohibited except as authorized by § 1903.17(b), or by other authorization from the CIA Director of Security, or from his or her designee.

15. In § 1903.20, revise paragraph (a) to read as follows:

§ 1903.20 Penalties and effects on other laws.

(a) Whoever shall be found guilty of violating any rule or regulation enumerated in this part is subject to the penalties permitted by 50 U.S.C. 3515(b).

Dated: March 27, 2023.

Beverly D. Kennedy,

Associate Deputy Director of CIA for Support, Management,

Central Intelligence Agency.

